

REMARKS

In accordance with the foregoing, this preliminary amendment is being filed concurrently with a Request for Continued Examination (RCE). As detailed above, claims 13 and 21 have been cancelled without prejudice or disclaimer, claims 12 and 36 have been amended, and claim 38 has been added. No new matter is presented in this Amendment. Therefore, claims 12, 15-17, 20, 27, 28, and 35-38 are pending and reconsideration is respectfully requested.

DOUBLE PATENTING:

Claims 27 and 28 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 26 and 35-37 of co-pending application No 10/737,837. However, since these claims are both dependent on claim 12, which is allowable as discussed below, this rejection is believed to be overcome.

INFORMAL TELEPHONE CONFERENCE WITH EXAMINER ON OCTOBER 12, 2006:

Applicants wish to thank the Examiner for the courtesy of the telephone conference of 10/12/06 during which the amendments to the claims and, in particular, the amendments to claim 12, were discussed. Applicants explained that, in claim 12, the safety device is now being recited after the recitation of the first lead so as to clarify the operation of the safety device as it pertains to the interruption of current between the output and the first leads. Applicants noted that, as such, the 35 U.S.C. §112, first paragraph rejection of claim 12 is addressed and overcome. Applicants further explained that claim 12 has also been amended to recite that the safety device includes a portion of the first lead, the cladding layer of which being connected to the can, a positive temperature coefficient (PTC) element, adjacent to the portion of the first lead, and an extension of the first material or an alloy thereof of the output lead adjacent to the PTC element, and that the cited references do not disclose the claimed features. As to both sets of amendments to claim 12, applicants were given the impression that the Examiner agreed that the amendments rendered claim 12 allowable.

REJECTIONS UNDER 35 U.S.C. §112:

Claims 12, 13, 15-17, 20, 21, 27, 28, 35 and 36 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. However, the rejected

claims have either been amended in accordance with the comments of the Examiner, in which case, the rejections are overcome, or have been cancelled, in which case the rejections are moot.

Claim 21 is rejected under 35 U.S.C. §112, second paragraph, as being indefinite. However, since claim 21 has been cancelled, this rejection is believed to be moot.

CLAIM OBJECTIONS:

Claim 21 was objected to. However, since claim 21 has been cancelled, this objection is believed to be moot.

REJECTIONS UNDER 35 U.S.C. §103:

Claims 12, 13, 17, 20, 21, 28 and 35-37 are rejected under 35 U.S.C. §103(a) as being unpatentable over Watanabe (U.S. Patent 6,492,058) in view of Morishita (U.S. Patent 5,976,729) and as evidenced by Pedicini (U.S. Patent 5,188,909). This rejection is overcome.

Briefly, it is noted that claim 12 now recites that the safety device includes a portion of the first lead, the cladding layer of which being connected to the can, a positive temperature coefficient (PTC) element, adjacent to the portion of the first lead, and an extension of the first material or an alloy thereof of the output lead adjacent to the PTC element. As such, a layered structure of the safety device is provided for.

The claimed structure of the safety device is not disclosed in the cited art. In support of this position, it is noted that only Watanabe is cited for the purpose of providing a safety device (the PTC device 13) and that the PTC device of Watanabe is not disclosed as having a similar structure as the claimed structure of the safety device. In detail, where the claimed safety device includes a layering of the first lead, the PTC element, and the output lead, the Watanabe PTC device appears to have a "band-aid like" structure which does not read on claim 12.

Thus, applicants respectfully assert that claim 12 is patentably distinguished from any combination of the cited references. Therefore, the rejection of claim 12 is believed to be overcome.

Regarding the rejections of claims 13, 17, 20, 21, 28 and 35-37, it is noted that these claims depend from claim 12 and that, therefore, the rejections of these claims are also believed

to be overcome for at least the reasons set forth above.

Claims 15 and 16 are rejected under 35 U.S.C. §103(a) as being unpatentable over Watanabe (U.S. Patent 6,492,058) as applied to claim 12 above, and further in view of Pedicini (U.S. Patent 5,188,909). However, it is noted that these claims depend from claim 12 and that, therefore, the rejections of these claims are also believed to be overcome for at least the reasons set forth above.

ADDED CLAIM 38:

Claim 38 has been added and recites an output lead, made of a first material or an alloy thereof, electrically coupled to the second terminal, a first lead, electrically coupled to the first terminal, including a layer of the first material or an alloy thereof and a cladding layer made of a second material or an alloy thereof, and a safety device, electrically coupled to the output lead and the first lead, including a portion of the first lead, the cladding layer of which being connected to the can, a positive temperature coefficient (PTC) element, adjacent to the portion of the first lead, that interrupts current between the output lead and the first lead upon a temperature and/or a voltage increase in the can, and an extension of the first material or an alloy thereof of the output lead adjacent to the PTC element. Therefore, claim 38 is believed to be allowable for substantially similar reasons as set forth with respect to claim 12.

CONCLUSION:

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited. If there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters. Finally, if there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

STEIN, MCEWEN & BUI, LLP

Date: _____

12/15/06

By: _____



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